



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

GLENN J BRICKEN & ASSOC

Respondent Name

ZENITH INSURANCE COMPANY

MFDR Tracking Number

M4-16-3517-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

July 25, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "When calling Zurich [sic] a representative...stated that the claim had been denied by the adjuster...We respectfully request dispute resolution in this matter."

Amount in Dispute: \$1,055.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "On July 14, 2015, Zenith Insurance ('Zenith') filed a Notice of Disputed Issue(s) and Refusal to Pay Benefits regarding the extent of compensable injury...On February 08, 2016, Zenith received the original bill submission. Procedure codes 90791 and 96101 were denied by the Claims Adjuster as non-compensable services. The explanation of payment advised: 'Zenith is only [injury] at this time...'"

Response Submitted by: The Zenith

SUMMARY OF DISPUTED SERVICE(S)

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Due
November 17, 2015 and November 23, 2015	90791 and 96101	\$1,055.00	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.305 sets out the procedure for Medical Fee Dispute Resolution.
3. 28 Texas Insurance Code Chapter 1305 applicable to Health Care Certified Networks
4. 28 Texas Administrative Code §§10.120 through 10.122 address the submission of a complaint by a health care provider to the Health Care Network.
5. 28 Texas Administrative Code §141.1 sets out the procedures for Requesting and Setting a Benefit Review Conference.

Issue(s)

1. Does the insurance carrier's position statement address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed?
2. Did the in-network healthcare provider render services to an in-network injured employee?

Findings

1. The requestor seeks reimbursement for CPT codes 90791 and 96101 rendered on November 17, 2015 and November 23, 2015. The insurance carrier's position summary states in pertinent part, "On February 08, 2016, Zenith received the original bill submission. Procedure codes 90791 and 96101 were denied by the Claims adjuster as non-compensable services. The explanation of payment advised: 'Zenith is only accepting [injury] at this time...' Review of the EOBs finds the following:

Date of Service November 17, 2016 and November 23, 2016

EOB with a date of review of February 16, 2016 contains the following denial reason code(s):

- 641 – The medically unlikely edits (MUE) from CMS has been applied to this procedure code.
- 790 – This charge was reimbursed in accordance to the Texas Medical Fee Guideline
- 97 – The benefit for this services is included in the payment/allowance for another service/procedure that has already been adjudicated
- P12 – Workers compensation jurisdictional fee schedule adjustment
- Note: Zenith is only accepting [injury] at this time

EOB with a date of review of July 11, 2016 contains the following denial reason code(s):

- 224 – Duplicate charge
- 18 – Exact duplicate claim/service

To determine whether such an extent-of-injury or related dispute existed at the time any particular medical fee dispute was filed with the Division and whether it was related to the same service, the applicable former version of 28 Texas Administrative Code § 133.240 (e) (1), (2) (C), and (g) addressed actions that the insurance carrier was required to take, during the medical bill review process, when the insurance carrier determined that the medical service was not related to the compensable injury:

31 TexReg 3544, 3558 (April 28, 2006). Those provisions, in pertinent parts, specified: Former 133.240 (e) (1), (2) (C), and (g): The insurance carrier shall send the explanation of benefits in the form and manner prescribed by the Division.... The explanation of benefits shall be sent to: (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill; and (2) the injured employee when payment is denied because the health care was: ... (C) unrelated to the compensable injury, in accordance with § 124.2 of this title... (g) An insurance carrier shall have filed, or shall concurrently file, the applicable notice required by Labor Code § 409.021, and § 124.2 and 124.3 of this title ... if the insurance carrier reduces or denies payment for health care provided based solely on the insurance carrier's belief that: . . (3) the condition for which the health care was provided was not related to the compensable injury.

The Division finds that the EOB dated February 16, 2016 presented for review contain information/documentation to support that the insurance carrier raised the issue of extent of injury as indicated by the insurance carrier during the bill review process. The Division finds that the defenses the carrier raised at medical fee dispute resolution are supported and will be considered in this review.

28 Texas Administrative Code §133.305(b) requires that extent-of-injury disputes be resolved prior to the submission of a medical fee dispute for the same services. 28 Texas Administrative Code §133.307(f) (3) (C) provides for dismissal of a medical fee dispute if the request for the medical fee dispute contains an unresolved extent-of-injury issue. The Division finds that the dispute contains an unresolved extent-of-injury issue for this dispute. As a result, the dispute is not eligible for review by MFDR until final adjudication of the extent-of-injury issue.

The Division hereby notifies the requestor that the appropriate process to resolve the extent-of-injury issue may be found in Chapter 410 of the Texas Labor Code, and 28 Texas Administrative Code §141.1. As a courtesy to the requestor, instructions on how to file for resolution of the extent-of-injury issue is attached.

28 Texas Administrative Code §133.307(f) (3) provides that a dismissal is not a final decision by the Texas Department of Insurance, Division of Workers' Compensation ("Division"). The medical fee dispute may be submitted for review as a new dispute that is subject to the requirements of 28 Texas Administrative Code §133.307. 28 Texas Administrative Code §133.307 (c)(1)(B) provides that a request for medical fee dispute resolution may be filed not later than 60 days after a requestor has received the final decision, inclusive of all appeals, on the extent-of-injury dispute.

2. The requestor presented an EOB dated March 21, 2016 which contained information to support that the services rendered on December 12, 2015 were processed in accordance with the terms of a contract with Coventry MPC/HCN. Although this date of service is not in dispute, this EOB contained information to support that the disputed services with rendered within the Coventry Health Care Network (HCN). The authority for MFDR to resolve matters involving employees enrolled in a certified health care network is conditional. 28 Texas Administrative Code §133.305 (a) (4) defines a medical fee dispute as “A dispute that involves an amount of payment for **non-network** health care rendered to an injured employee that has been determined to be medically necessary and appropriate for treatment of that injured employee's compensable injury. The dispute is resolved by the Division pursuant to Division rules, including §133.307 of this title (relating to MDR of Fee Disputes.” The Division defines non-network health care in paragraph (a) (6) of the same rule as “Health care not delivered or arranged by a certified workers' compensation health care network as defined in Insurance Code Chapter 1305 and related rules ...” That is, the Divisions medical fee dispute resolution section, may address disputes involving health care provided to an injured employee enrolled in an HCN, only if the out-of-network health care provider was authorized by the certified network to do so.

28 Texas Administrative Code §133.305 (a) (4) defines a medical fee dispute as “A dispute that involves an amount of payment for **non-network** health care rendered to an injured employee that has been determined to be medically necessary and appropriate for treatment of that injured employee's compensable injury. The dispute is resolved by the division pursuant to division rules, including §133.307 of this title (relating to MDR of Fee Disputes.” Non-network health care is defined in Section (a) (6) of the same rule as “Health care not delivered or arranged by a certified workers' compensation health care network as defined in Insurance Code Chapter 1305 and related rules ...”

The TDI rules at 28 Texas Administrative Code §§10.120 through 10.122 address the submission of a complaint by a health care provider to the Health Care Network. The Division finds that the disputed services rendered by an in-network healthcare facility to an in-network injured employee may be filed to the Texas Department of Insurance's (TDI) Complaint Resolution Process, if the health care provider or facility is dissatisfied with the outcome of the network complaint process. The complaint process outlined in Texas Insurance Code Subchapter I, §1305.401 - §1305.405 may be the appropriate administrative remedy to address fee matters related to health care certified networks.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution. This finding is based upon a review of all the evidence presented by the parties in this dispute. Even though not all the evidence was discussed, it was considered. The Division finds that this dispute is not eligible for medical fee dispute resolution under 28 Texas Administrative Code §133.307.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

December 2, 2016
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.